

# **IMPLEMENTATION TEAM CONFERENCE CALL NOTES**

**May 3, 2000**

## **NATIONAL MARINE FISHERIES SERVICE OFFICES PORTLAND, OREGON**

### **I. Greetings, Introductions and Review of the Agenda.**

The May 3, 2000 conference call of the Implementation Team, held at the National Marine Fisheries Service's offices in Portland, Oregon, was chaired by Brian Brown of NMFS. The list of attendees is attached as Enclosure A.

The following is a distillation (not a verbatim transcript) of items discussed at the meeting, together with actions taken on those items.

Brown welcomed everyone to the call, led a round of introductions and a review of the agenda. Brown noted that there had been a lively discussion of the technical issues associated with the spill and transportation programs earlier this morning; he said the purpose of today's conference call is to make a decision on the issue elevated from the Technical Management Team regarding 24-hour spill at Little Goose Dam:

“[In SOR 2000-16, the salmon managers request immediate implementation of 24-hour spill to the gas waiver at Little Goose Dam.]. The TMT recognizes this is a policy issue and is raising the question of 24-hour spill at Little Goose Dam to the IT. On Wednesday, May 3, the TMT requests technical discussions from: NMFS Science Center, the states and tribes regarding the science supporting leaving fish in river, and BPA on the transmission constraints related to spill at Little Goose.”

In other words, said Brown, it is an in-season management issue associated with the implementation of the Biological Opinion; essentially, the TMT has asked us to interpret what the Biological Opinion says. That's pretty cut and dried, said Brown – the Biological Opinion calls for 12-hour spill at Little Goose, not 24-hour spill.

The other issue has to do with the fact that people disagree with the fact that the Biological Opinion says 12-hour spill at Little Goose, Brown said. I understand that was the main topic of discussion during this morning's technical session; many of you heard the technical basis for NMFS'

decision. In the next few weeks, you will receive a draft of the 2000 FCRPS Biological Opinion for review; you will have further opportunity to comment at that time. Given these facts, said Brown, I'm not really sure what the purpose of today's discussion is.

Tom Lorz said that it was his understanding that Idaho has requested that NMFS provide the biological justification for its decision to transport fish from Little Goose, rather than increasing spill at that project. We understand that is something we'll need to provide to support our position, as expressed in the Biological Opinion, Brown said. That documentation will be included in the draft BiOp due out in several weeks.

Frankly, what we're faced with is the fact that, in the interest of doing what we thought was the best thing for fish, NMFS and the Action Agencies fast-tracked a couple of the issues, one of which is fish spill, said Brown; they got out ahead of the draft Biological Opinion. We could have just left spill everywhere the way it was in previous years; we didn't think that was the best thing to do for fish. Therefore, NMFS made an effort to implement the changes we had already agreed to in spring 2000, said Brown. There was certainly no intent on my part or NMFS' part to short-change anyone, in terms of sharing the technical basis for these decisions.

Jim Nielsen said the salmon managers appreciate NMFS' efforts; they simply don't agree with the decision that was made at Little Goose, and want to better understand the rationale for the decision. As I said in the letter I sent out, our reasoning was basically described in the Biological Effects Report that went out several weeks ago, Brown replied. Because I talked to all of you between the time that draft report was turned into a draft decision, he said, I understood that there was not complete agreement on this issue.

The second issue we need to discuss during today's call is the design of NMFS' pilot transport study for summer migrants in 2000, Brown said. My understanding is that the NMFS Northwest Science Center has proposed a marking experiment involving Lyons Ferry Hatchery fish, with a portion to be transported and a portion to be left in-river. A recent FPAC discussion resulted in a letter to Paul Wagner and Jim Nielsen opposing that study, Brown said. As most of you are aware, WDFW's usual policy is not to release fish for studies on which there is lack of consensus; NMFS still has a research request pending for the release of those fish. Nielsen noted that this is not just WDFW policy; it is U.S. v. Oregon policy as well.

Ron Boyce joined the call at this point, and asked Brown to review the decision on the Little Goose issue; Brown replied that, given the pressures on his schedule today, he would prefer that Boyce talk to his colleague Christine Mallette, who was present when that issue was discussed.

I understand that you're pressed for time, said Michele DeHart, but are you saying that NMFS has decided that the spread-the-risk policy is going to be defined as transporting 82% of the yearling chinook and 85% of the steelhead this spring? What I said earlier is that NMFS will provide all of the

justification for this action in the draft Biological Opinion in a few weeks, said Brown.

At Boyce's request, Brown then restated the decision on the Little Goose spill issue; he reiterated that the other salmon managers will have an opportunity to make their views known on the Little Goose spill issue once the draft Biological Opinion is released for comment on May 22. Was that acceptable to the other salmon managers on today's call? Boyce asked. I got assent through silence that we could move on to the next issue, Brown replied. Actually, I don't think that question was ever asked, said Howard Schaller; you told us what you were going to do, but you never asked whether or not we agreed. From my perspective, said Schaller, while the Biological Opinion may call for 12-hour spill at Little Goose, it also calls for a spread-the-risk strategy. The question is, how do you interpret that, and which component of the Biological Opinion are you obligated to implement?

Boyce said he would prefer to resolve the Little Goose spill issue now, rather than waiting until after May 22. Nielsen noted that, at a meeting in 1997, "spread-the-risk" was defined as a much lower percentage of transported fish than is being contemplated this year, according to the federal interpretation of the policy.

Jim Yost said that Idaho isn't particularly pleased with NMFS' decision, either, but intends to articulate its views when they provide comments on the draft BiOp. Boyce requested that NMFS reconsider the Little Goose spill request, and assess it based on the existing Biological Opinion. Since the existing BiOp says the same thing about Little Goose as the upcoming draft BiOp, said Brown, I'm not sure I understand. Again, said Nielsen, in 1997, there was agreement to do something that might be different from a strict interpretation of the 1995 Biological Opinion. True, said Brown, and in 1998, that was written into the supplemental Biological Opinion.

Are you suggesting that NMFS return to the former spill program in prior Biological Opinions, which would mean no 24-hour spill this spring? Jim Litchfield asked. No, we're simply pointing out that there is flexibility in the BiOp, said Nielsen – just because it says 12 hours, that doesn't mean that is the only possible spill operation. Litchfield observed that, up until this year, there was no flexibility for 24-hour spill.

Still, there is the flexibility to try to achieve some degree of equity in the percentage of fish in barges versus the percentage of fish left to migrate in-river, said Boyce. In response to a question, Boyce said his reading of the information in hand indicates that transportation is not very beneficial; many of the analyses that have been done in the past, including the CRI analysis, indicate that transportation is providing very little benefit. This new information is what has led me to challenge the strategy of putting three-quarters of our migrants into barges, he said – to me, that just doesn't make sense. Litchfield said he was present during this morning's technical presentation, and found the new information to which Boyce referred as far from convincing – the data are based on adult return groups that are very small, and it is very difficult to draw any conclusions about Little Goose in particular, he said. If you look at the overall transport adult return groups, he said, there is substantial improvement.

Boyce requested that NMFS provide written documentation for its decision not to implement the requested 24-hour spill regime at Little Goose. As Brian said, Ruff replied, we have agreed to provide that documentation in the draft Biological Opinion on May 22. By then it will be a moot point, Nielsen observed – the intent of the SOR is to provide some accountability for this year. I understand, said Litchfield; however, given the fact that NMFS is apparently not going to change its decision on this issue in time to implement 24-hour spill at Little Goose in 2000, what difference does it make if you receive that justification now, or on May 22? I don't think you can measure what we have to do to respond to our policymakers in a timely manner, said Schaller; I think Ron's request for timely documentation is a reasonable one.

Again, said Ruff, we are in the process of assembling that justification right now, for inclusion in the draft BiOp. We would like to be able to complete that, get that document out on the street, then entertain comments. I think it will address this issue, because it will articulate the rationale for the spill program, and how it was developed, Ruff replied. Does it address the spread-the-risk issue? Nielsen asked. There is no attempt in the draft to manage to a specific proportion of the run to be left inriver. The transport policy we established in 1998 will be continued.

What was the biological basis for NMFS' decision to go with 12-hour spill at Little Goose, but 24-hour spill at Lower Monumental? he asked. It was the information in the Biological Effects Report, Ruff replied, which indicated that Lower Monumental had the lowest dam passage survival of any project in the Snake River. On the other hand, said Ruff, Little Goose had the highest dam passage survival of any project in the Lower Snake, and for that reason, we made Lower Monumental, rather than Little Goose, our highest priority for improving dam passage conditions.

In any event, said Ruff, I have heard your request for written documentation, and we will see what we can pull together from what is in the draft Biological Opinion, although it will not be much different from information already provided you in the Biological Effects Report.

Moving on to the second issue, the Snake River summer transportation pilot study, Schaller said ODFW has a number of concerns. The main problem, he said, is that the study, as currently designed, is not a true in-river control – there is no spill during the summer period, so all of the control fish have to go through turbine and bypass. The second problem is that the test fish are very large, said Schaller; to keep the fish at the proper size, they would basically have to take them off feed and starve them. We are concerned about the fact that the study fish are huge, and not at all representative of the wild fish this study is intended to address.

Nielsen noted that the original AFEP study proposal said “The research will provide critical information, comparing SARs of yearling chinook and hatchery-reared subyearling chinook salmon juveniles transported around dams using state-of-the-art facilities and technologies, versus the SARs of their cohorts that migrated in-river, under conditions set to provide as favorable in-river passage conditions as possible.” Nielsen noted that the failure to provide good in-river conditions was a major

weakness of earlier studies.

Ruff replied that NMFS considered various spill scenarios at the collector projects during the summer period. However, our evaluation indicated that 25% fewer fish would make it to below Bonneville Dam, under a spill scenario, Ruff said. We don't have any information about the benefits of transportation for Snake River fall chinook; that is precisely why we want to conduct this study, he added.

However, the problem with this study is that it isn't going to give you that information, said Schaller – again, you will not have results for a true control group. Unless you have a true control group, he said, we are going to continue to argue over what the results of these studies tell us. It isn't just the transport/control ratio, said Schaller – it's how effective transportation is overall, as an expression of something like the "D" value.

Won't we be evaluating the adult return rates for transported fish versus the adult return rates for in-river migrants? Ruff asked. Yes, but those are in-river migrants that are not true controls, Schaller replied. I don't understand what you mean by that, said Athearn. I agree, said Ruff – these fish will experience the same conditions summer fish have migrated under for the past several years, since the 1995 Biological Opinion has been implemented. That is precisely the information we would like to get, Ruff said – if the in-river migrants show a greater survival rate, than affected, then we might want to re-think the summer spill operation. Until we get that information, however, we're reluctant to put a greater number of fish at risk just to do this study.

The group spent a few minutes debating the strengths and shortcomings of NMFS' proposed study design, with NMFS arguing that this study will provide, at minimum, useful baseline data about current conditions in the system, and Schaller, Boyce and others arguing that the study, as currently designed, is fatally flawed.

Ultimately, Ruff summarized the outcome of this discussion by saying that NMFS and the other salmon managers are going to have to agree to disagree on the study design issue. NMFS would like to conduct the study under existing conditions, and will continue to work with the State of Washington to get the necessary fish. We have sent a letter to the state, he said, and have not yet received a response.

Ruff also said NMFS will continue to work with Jim Nielsen, Bob Foster and the co-managers to obtain the fish needed for this study. Lorz observed that the Nez Perce Tribe in particular does not support this study, due to concerns about potential tagging mortality impacts on their production fish.

With that, the conference call was adjourned. Meeting notes prepared by Jeff Kuechle, BPA contractor.

